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FILED

July 27 2010

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

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DAVID L. IRVING  
110 - 5<sup>th</sup> Street South, Suite 110  
Drawer B  
Glasgow, Montana 59230  
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Attorney for Appellant/Respondent

IN THE SUPREME COURT OF THE STATE OF MONTANA  
CAUSE NO. DA 10-0207

In Re the Application for Writ of  
Certiorari by:  
  
GLEN MEIER and STEPHANIE MEIER,  
Husband and wife, J. DAVID KNIERIM  
and KARI LEE KNIERIM, husband and wife,  
personally and as trustees of family trust,  
PATRICIA C. KNIERIM, and TOM LUND and  
BETTY LUND, husband and wife,  
  
Petitioners and Appellees,  
  
vs.  
  
FORT PECK RURAL COUNTY WATER  
DISTRICT, INC.,  
  
Respondent and Appellant.

APPELLANT'S  
MOTION TO DISMISS APPEAL

COMES NOW the Appellant Fort Peck Rural County Water District, Inc., (herein-  
after 'the District') by and through counsel, and respectfully requests an Order dismissing  
the appeal. This motion is based upon the following:

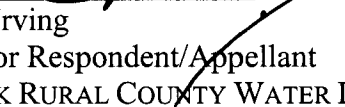
- 1) The Appellant District recently passed a Resolution to construct additional water  
lines that will serve additional landowners, including the Petitioners/ Appellees;  
and

1 2) The Appellant District's Board believes that with these improvements, the parties  
2 can work out their differences, and there is no longer a need for a decision by the  
3 Montana Supreme Court.

4 This motion is supported by the Affidavit of David Irving submitted herewith.  
5 Counsel for the Petitioners/Appellees has been contacted, and has no objection to the  
6 dismissal.

7 Appellant respectfully requests that the appeal be dismissed.

8 DATED this 26th day of July, 2010.

9  
10   
11 David L. Irving  
12 Attorney for Respondent/Appellant  
FORT PECK RURAL COUNTY WATER DISTRICT, INC.

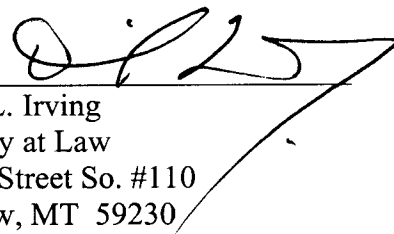
13 CERTIFICATE OF SERVICE

14 I hereby certify that I have filed a true and accurate copy of the foregoing  
15 APPELLANT'S MOTION TO DISMISS APPEAL and AFFIDAVIT OF DAVID L.  
16 IRVING with the Clerk of the Montana Supreme Court; and that I have served true and  
accurate copies of these documents, as follows:

17 Kelly Barstad Hon. John C. McKeon  
18 VALLEY COUNTY COURT REPORTER DISTRICT COURT JUDGE  
19 719 6<sup>th</sup> Ave. North P. O. Box 470  
Glasgow, MT 59230 Malta, MT 59538

20 Laura Christoffersen  
21 CHRISTOFFERSEN & KNIERIM, PC  
22 P. O. Box 29  
Glasgow, MT 59230

23 DATED this 26th day of July, 2010.

24   
25 David L. Irving  
26 Attorney at Law  
110 5<sup>th</sup> Street So. #110  
27 Glasgow, MT 59230  
28

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BETTY LUND, husband and wife,

Petitioners and Appellees,

vs.

FORT PECK RURAL COUNTY WATER  
DISTRICT, INC.,

Respondent and Appellant.

AFFIDAVIT OF  
DAVID L. IRVING

STATE OF MONTANA )  
: ss.  
County of Valley )

DAVID L. IRVING, after first being duly sworn upon oath, deposes and says.

1) I am the attorney representing the Fort Peck Rural County Water District, Inc.,  
and this Affidavit is submitted in support of Appellant's Motion to Dismiss the  
Appeal.

- 1
- 2) A public meeting was held on July 19 at which the District's Board of Directors
- 2
- voted on a resolution to construct additional water distribution lines, called 'the
- 3
- loop', that will serve the property owned by the Petitioners/Appellees. These
- 4
- improvements will address the issues between the parties, and will make the
- 5
- District's overall distribution system more efficient for its future users.
- 6
- 3) A special meeting was held on July 22, 2010 at which the Board of Directors
- 7
- authorized the undersigned to dismiss the appeal, given the actions taken at the
- 8
- public meeting.
- 9
- 4) Affiant believes the parties have resolved their differences and there is no longer
- 10
- a need for adjudication by the Montana Supreme Court.
- 11

12

FURTHER, Affiant sayeth naught.

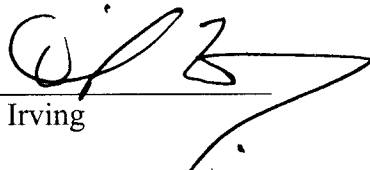
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14

DATED this 26<sup>th</sup> day of July, 2010.

15

16

  
David L. Irving

17

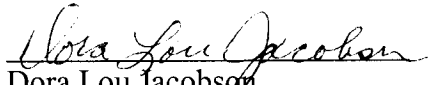
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SUBSCRIBED AND SWORN TO before me this 26<sup>th</sup> day of July, 2010.

19



**DORA LOU JACOBSON**  
Notary Public for the  
State of Montana  
Residing at Glasgow, MT  
My Commission Expires  
October 18, 2012

  
Dora Lou Jacobson  
NOTARY PUBLIC, STATE OF MONTANA  
Residing at Glasgow, Montana  
My Commission expires: October 18, 2012